

CONSTITUTIONAL TRUTHS.



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Res nulli obscuras, nostræ nec vocis egentis.

VIRG.

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AT a time when sophistry is employed to persuade the people, contrary to the evidence of their senses and their reason, that the part which they have taken in the present crisis, has been merely owing to the prevalence of certain VULGAR ERRORS, it is hoped that the following CONSTITUTIONAL TRUTHS, selected from the most approved writings of the day, will either not be disputed, or be met fairly with reason and argument.

TRUTH THE FIRST.

That the Coalition between Lord North and Mr. Fox, was formed for the avowed purpose of seizing upon the executive government, and as such was highly dangerous to the British constitution. From Mr. Rous's "Claim examined."

THE common sense of an enlightened public cannot be deceived. They saw a party, whose views have been often noble, labouring in Lord North's administration to emancipate the House of Commons from the influence of the Crown. The people applauded and aided their endeavours—Why? Because the House of Commons
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could not answer the purposes of its institution, unless the HOUSE OF COMMONS were independent of the EXECUTIVE POWER. The loss of America, and subsequent laws, sufficiently reduced this influence; and the people naturally flattered themselves with the prospect of an administration, in which the ministers of the crown should become really accountable *for their conduct* to national assemblies. This pleasing prospect was suddenly clouded by a Coalition, which excited universal astonishment. All men knew with certainty, that this union could not be founded on public duty; because, during ten years, every principle of public conduct relative either to domestic government or foreign interests, had repeatedly been drawn into discussion in parliament, and these leaders had ever been found in direct opposition to each other. The real object of this union did not long continue doubtful.—Lord North, with the dependants which a long administration had created, added to the great families who composed the Aristocratic party, commanded a majority in the House of Commons. The first use they made of this majority was, by a vote to condemn the peace. To say nothing of the merits of the peace, this vote could not possibly have for its object, any *public benefit*. They were compelled to acknowledge in debate, that the experiment was hazardous to the *public interest*; as such a vote might create distrust, in a moment when the two courts of France and Great Britain were taking measures in concert, for the joint execution of the treaty in distant parts of the world, particularly in India. Did they mean to break the treaty? No—They disclaimed any such intention. Did they

they mean to impeach the minister? No—They knew, moreover, before the debate* was closed, that the House of Lords, the necessary Judges of an impeachment, had approved the peace, in an address to the Throne. At length, the manly understanding of Mr. Fox saw that it was no longer possible to disguise their motives; and he jocosely said his honourable colleague, Sir Cecil Wray, did not understand *the art of making ministers*. To make ministers, therefore, was their object. The king, rather than engage in a contest with the House of Commons, prudently submitted; and, though with a reluctance natural to his situation, finally permitted these parties to arrange the administration at their pleasure—Or, to use the phrase of Mr. Pitt, perhaps better adapted to the case, they seized the government.

TRUTH THE SECOND.

That Mr. Fox's East-India bill was unconstitutional.
From Mr. Pakeney's pamphlet.

MR. DE LOLME in his excellent treatise on the constitution of England, viz. Book 2d. cap. 9th, shews that in Republican Governments, the people are necessarily betrayed by those in whom they trust, but in the 10th chapter, he explains by what happy mechanism in our state, we are relieved and secured from that fatal disadvan-

* If I recollect right, the day on which the Lords voted their address, the Commons refused their approbation, not having sufficient information to decide. Yet, on the next day, condemned the peace, without any *new lights*, except such as arose from the numbers on the former division.

tage, and that with us " the people can give
 " their confidence, without giving power over
 " themselves, they can appoint trustees and yet
 " not give themselves masters." In the 17th
 chapter he points out by what circumstances in
 our form of government, the crown has been
 enabled, without a dependant mercenary army,
 to maintain its necessary authority, although
 that authority is the object of jealousy to every
 part of the people; and in the 19th chapter he
 sets in a strong and clear light *the very great and
 fatal danger of transferring any part of the power
 which ought to be vested in the crown, to any other
 order of men in the state*, and this is a very differ-
 ent question from that of abolishing altogether,
 any power in the crown, which may be thought
 too great or too dangerous. I cannot help tran-
 scribing a short paragraph from this chapter " If
 " through the unforeseen operation of some new
 " regulation, made to restrain the royal preroga-
 " tive or through some sudden public revolu-
 " tion, any particular bodies or classes of indi-
 " viduals, were ever to acquire, a personal in-
 " dependant share, in the exercise of the govern-
 " ing authority, we should behold, the virtue
 " and patriotism of the legislators, and great
 " men, immediately cease with its cause, and
 " ARISTOCRACY, as it were watchful of the op-
 " portunity, burst out at once, and spread it-
 " self over the kingdom."

These chapters were not wrote with a view to
 the present question, but they are applicable to
 it in so direct a manner, that they will almost
 appear to have been wrote for the express pur-
 pose: That author's doctrines are the result of
 a cool dispassionate investigation of the princi-
 ples

ples of our government, and therefore are free from all suspicion of party views. They will lead to very deep and serious reflections in the breast of every man who values the liberty he has hitherto enjoyed.

We ought to try every experiment before risking the consequences of so material a change as this, in our present constitution, and many thinking men begin to pronounce that the total loss of India to Britain, would be a misfortune of inferior magnitude, to the necessary blow which the present bill would give to the liberties of this country.

If this bill should pass, it will be a call upon every man of every rank, who is not embarked as an accessory to the measure, to unite in a systematic body to bring about its repeal. The question of General Warrants, the question of the Middlesex Election, and all the constitutional topics which have agitated mens minds in modern times, are as nothing when put in comparison with it. The fate of the kingdom, the freedom of Britons, will ultimately depend, upon the effect of their united efforts to restore the breach that will thus be made, in the best constitution which the admiring world has ever beheld.

TRUTH THE THIRD.

That Mr. Fox's East India bill was a confiscation of property. From Mr. Boswell's Letter.

THE second clause of this bill provides,
 " That the seven Commissioners shall immedi-
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" iately enter into and possess themselves of all
 " lands, tenements, houses, warehouses, and
 " other buildings whatever, belonging to the
 " said Company, and all books, records, char-
 " ters, &c. and all ships and vessels, goods,
 " wares, merchandises, money, securities for
 " money, and all other effects whatsoever; and
 " the directors of the said company, and all
 " officers and servants thereof, are hereby in-
 " joined, immediately upon the requisition of
 " the said Commissioners, to deliver to them,
 " or to such persons as they shall appoint, the
 " several matters aforementioned."

Can a more tremendous exercise of arbitrary power be figured than this?—That a great Company, which has subsisted for above two centuries, under the sanction of charters from the Crown, should all at once not only be deprived of the territorial power, which it has acquired, and which has no doubt been flagitiously abused by some of its servants, but have all its effects, in all parts of the world, abstracted from its own care and management, and delivered up to a set of men not of its own appointment. There is something in this so shocking to the first notions of property and justice, as must make us shudder with consternation. Were such a bill to pass into a law, the expression "What is a charter but
 " a sheet of parchment with a bit of wax dangle-
 " ling to it," might be uttered without being stigmatized as grossly indecent; for there would then be no force in a charter, the essence of which is not *matter* but *spirit*. If an Attorney General were hanged, it might be said with vulgar triumph, "What is an Attorney General, but
 " a carcase dangling at the end of a rope?" But
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can such expressions be used with propriety, while a charter contains the faith of majesty, and the person of an Attorney General is dignified with an important trust from the King?

It is well known, that many individuals of different nations have their whole property vested in the funds of the East India Company, because it hath hitherto been believed, that in this great and free country, there is no danger of such confiscations or seizures by an unexpected stretch of power, as have sometimes happened in other countries in Europe; but had this rapacious grasp been successful, Where would have been our boasted pre-eminence of security? And how woefully must our national credit have sunk?

The injustice of the measure would have been the same to the proportion of whatever nation, but must have been peculiarly distressing to those of our own country, who for a long period of time have been habituated to the persuasion, that a Royal Charter is so sacred, that nothing but the strongest reasons, amounting almost to the plea of necessity can be permitted to annul or alter it.

TRUTH THE FOURTH.

That patronage and not regulation was the object of Mr. Fox's East India bill. From Mr. Joseph Price's Letter.

IF I cared a sixpence for Mr. Burke's opinion, as an honest man, I would be at the trouble to refute in the same manner, from his publications, and from his speeches in Parliament, * every
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* Vid. Beauties of Fox, North, and Burke.

one of his inveterate harangues and misrepresented charges against the Governor-General of Bengal: But that is not now the question; he stands no more in the way of the present plan than Lord North does. The point with the coalition is this: If we do not by one bold stroke manacle the —, he will spoil our leasing. Money is equally the sinew of every kind of war, whether of gun-powder, of paper, or of words; and patronage can with more decency be directed to all our purposes, than solid gold: and patronage we must have, or our majority cannot stand. Such is now almost openly avowed to be the principle of action. Where such doctrine, and the accumulation of such power as the East-India patronage will lead, is the duty of every Englishman to consider; and that every Englishman might have an opportunity to consider it fairly, a reference of the question to them, by a dissolution of the Parliament, would be constitutional, expedient, and fair; and I believe, very popular all over the kingdom.

TRUTH THE FIFTH.

That the right of advising his Majesty, lately stigmatized under the cant term of SECRET INFLUENCE, is the undoubted privilege of every Briton, and that the King is not obliged to confine himself to the advice of his ostensible ministers. From Mr. Rous's pamphlet, entitled, "A candid investigation."

CLAMOUR is now raised against *Secret Influence*, and we are told the King must advise with his ostensible ministers alone. This I deny: in his character as executive magistrate, the King must

must act by his *official* servants, because each in his several department is punishable, if these acts do not conform to the existing laws, or the laws would cease to be the rule of his government. But in his character as legislator, giving his consent to make *new laws*, the king may take the advice of all his subjects; and no man is responsible for his act, because this prerogative of refusing his assent to *new laws*; of putting his negative upon any *proposed change in the government*, is a defensive power given to preserve the balance of the constitution, and must exist without restraint, or it cannot exist at all. Suppose, for a moment, the two Houses of Parliament determined to pass a law, which transferred the whole executive government of the state from the crown to persons of their own nomination. If the new doctrines shall prevail, who will advise the King to reject the bill? One house will impeach, the other will condemn the adviser. Who, under such circumstances, will venture to approach the Throne? Or must the King be left wholly without advice, and liable to be *surprised* into a consent, where *error is irreparable*? For a law once passed, cannot be annulled without the concurrence of King, Lords, and Commons. Or shall the King be left wholly ignorant of the sentiments of his subjects, and in a situation therefore to be *terrified* into a compliance? Is this an idle apprehension? The thing has been once already accomplished, partly by surprize and partly by threats, not in a single law, but in several successive laws, by that very parliament of 1640, whose creed is become so fashionable of late. Suppose, for the sake of argument, that a parliament so disposed, should be led by those who had forced themselves into the

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councils of the sovereign. These ministers will not advise the King to defeat their own projects. They will rather endeavour to persuade or alarm him into a compliance. Shall no other subject approach the Throne, or tender his advice? If he cannot, the act is done, and the mischief irrevocable!—Away with such libels on our constitution! Every subject has an equal right with his Majesty's ministers, each in his several station, to oppose the enactment of a law which he disapproves. If a member of either House of Parliament, in debate and by his vote; if a private subject, by petition or remonstrance to each and every branch of the legislature; and in the exercise of this right, the private subject is no more punishable for the advice given, than a member of either House of Parliament for the vote which he gives. In the manner of tendering this advice to the King, there has, by immemorial custom, prevailed a distinction between a Peer and a Commoner; but this distinction is merely in form, not in the essential right. A Peer tenders his advice in the more dignified manner of demanding an audience; the Commoner, in the form of petition, or, if he be angry, of a remonstrance. Whenever the private subject shall be prosecuted for petitioning the King not to assent to a proposed law, then will some late threats be executed, of impeaching a Peer.

TRUTH

TRUTH THE SIXTH.

That if Lord North and Mr. Fox succeed in the present struggle, the government is overturned. From Mr. Dobbs's letter.

THE great men who form the coalition, are a fourth estate that will, if it succeeds, hold the other three in chains.

I will for a moment suppose they carry their point, though I from my soul both hope and believe they never will—I will suppose they are forced upon his Majesty—there will not be a place or appointment that will not be theirs. The Royal favour, which, without endangering the constitution, endears the subject to the Crown, will be in their hands—it will be to King North and King Fox that all will look up—his Majesty will not perhaps be allowed the appointment of his menial servants, lest they should convey any information contrary to their wishes. To the King they will give the title and pageantry of Royalty, whilst all the reality will be theirs; and the shadow of Majesty will descend to his posterity. It appears clearly in my mind, that the bond of their union is power—that they both aimed at it, and rather than totally lose it, were contented to share it—that this was the mediator that healed all their animosities, and buried in oblivion the innumerable calamities brought, under his Lordship's administration, on this devoted country. If they carry their point, they may, in mockery, ask their Sovereign for his approbation, when they know he cannot withhold it. When any appointment is to be made, it will

run in the Gazette, "his Majesty has been graciously pleased," but every man will understand it is the coalition. When any favour is sought, it will probably be asked, what member of the coalition is your friend, or in what borough have you interest?—thus every place of honour or trust will be filled by their creatures—the army and navy may be properly modelled, and when they have a sufficient force, they may perhaps, openly avow the Supreme Power. This fourth estate, will then have compleatly destroyed the other three, and it will be a government of about three hundred tyrants, whilst the rest of the subjects will be slaves; or if they choose it, they may easily find means to do without the members of that coalition that raised them into power.

These are, I think, the obvious consequences of that coalition, of which they are the leaders, and I feel it a duty to expose the end and object of such designs. Now or never is the time to oppose them. The army is not yet theirs—the navy is not yet theirs—the King is not yet in chains—the Lords have nobly stood forth—the people know that they are not their representatives, and when they speak of the people's rights being invaded, because the King justly opposes the growing power of their fourth estate, they laugh at the idea. When his lordship speaks of his love of the constitution, and that he venerates it so much, that he cannot think of any alteration in the present mode of representation, does he think that one rational man conceives he means any thing else, but that he loves that fourth estate which gives him power? See what the cities and counties have lately done, and judge
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by it of the voice of the people. They compare these times to those of the Stuarts, without the least similitude, and think to terrify his Majesty from the just exertion of his prerogative; but all unbiassed men now see that it is not regal power that we have to fear—all see that the King is struggling for his just rights, and that to keep up his just prerogatives is absolutely necessary to the safety of the state; but the coalition depend on borough interests, without considering that the King and the people uniting, can in a moment destroy their baneful influence, and wrest from them for ever the very foundation of their power.

I conceive the true and just title of this question to be, Lord North, Mr. Fox, and the Coalition, against the King, the Lords, and the People; and though my life should pay the forfeit, I will range my little powers on the side of the people, of the Peers, and injured Majesty.

TRUTH THE SEVENTH.

That the dismissal of Ministers, solely because they had not the previous approbation of the House of Commons, would be to transfer to that House the nomination to the executive offices of Government.
From Mr. Rous's "Claim examined."

THE nomination of ministers, like every other power in Government, is a trust for the public benefit; and, therefore, ought to be so exercised, as to engage the public confidence: But if by confidence be meant, previous approbation or preference, this is nothing less than the nomination; and is, in other words, to contend, that the nomination of ministers ought to be in Parliament

liament. That the word confidence * is now used in this sense, and employed in preference to the more proper term, merely to evade a direct avowal of the real design (like the old distinction of bearing arms by the King's authority, against his person) is plain, not only from every act of the famous coalition, but may be collected even from the addresses of the House of Commons to the Throne. They profess to have disapproved the nomination of ministers, previous to any one act in that character; and declare, they never can condescend to assign their reasons for such disapprobation. They expect an implicit submission on the part of the King, and an instant dismissal of his ministers. Here, the deference which the leaders of the coalition thought it prudent to pay to the country gentlemen, has placed them in a ridiculous dilemma. They dared not to avow an intention of seizing the Government to themselves, but profess their object to be the formation of an extended, united, and efficient administration. The absurdity of insisting upon the disgrace and dismissal of those who are to form a part of this administration, previous to all treaty upon *fair and equal* terms, is so glaring, that a refusal even to treat, at once reveals the plan. They knew that Mr. Pitt, and those who act with him, have too high a sense of honour, ever to unite with men who insist upon their previous degradation. They knew likewise, that there are no other men, except their own party, capable of filling the offices of Government. If,

* This is the very phrase of the long parliament of 1640. When they seized the whole executive government, and overturned the constitution, the requisition to the Throne was, that the power should be placed in the hands of those in whom Parliament could CONFIDE.

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therefore, the sovereign could be prevailed upon to affront these ministers; he is without resource; he must submit to their terms: And they could easily attribute the failure of that union, which they profess to have in view, to the pride of Mr. Pitt and his associates.

The real question, therefore, to be decided by the people must be, Whether the King or the House of Commons shall nominate the ministers of the crown? Many men, perhaps, have not reflected what this question involves. It is, in truth, Whether the whole royal authority shall devolve on the House of Commons? For the king can exercise no authority whatsoever in his own person: and all the inferior departments in the state are filled by the advice, indeed by the nomination of his ministers. If the ministers, therefore, are nominated by others, we have no king:—This third estate, so essential to the preservation of our constitution, is compleatly abolished. The Royal power, indeed, subsists, but transferred to the House of Commons: and if I am right in conceiving the possession of this power to be inconsistent with their duties, the proper functions of that house are likewise suspended, and the liberties of the country are destroyed.

TRUTH THE EIGHTH.

That an attempt in the House of Commons to nominate to the executive offices of government is subversive of publick liberty. From ditto.

THE representatives, few in number, would quickly desert the people, if it were possible for them to erect a dominion to themselves—to have a permanent interest, distinct from that of the nation.

nation. Let them possess the executive government, independent of nomination and removal by the Crown, viz. by election in their own house, they have this *distinct*, nay *adverse* interest—they themselves have the power, which it is the general interest of the people at large to controul. The House of Commons, of 1640, whose precedents are become so fashionable of late, succeeded in the attempt, and established a most detestable tyranny. The late ministry were elected in the House of Commons, and the same effect instantly began to appear. The first measure of these ministers, nominally the ministers of the Crown, was calculated to erect a permanent independant power in their own party. The bill passed triumphantly through the House of Commons; and, had the other branches of the legislature assented, the Crown would have endeavoured in vain to remove them, or the people to controul. The event foretold, as the destruction of our constitution would have taken place, “the representatives of the people would have begun to share in the executive government.”

It is now contended, that the House of Commons ought to possess a negative upon the appointment of ministers. The distinction between an unlimited negative and an original right of nomination, is extremely nice; and a favourable situation may at once enable the House of Commons to convert such a negative into a real effective power of appointment. It is fit, therefore, that the people should fully understand, that the possession of such a power will necessarily convert the House of Commons from watchful guardians of the public safety, into the domineering tyrants of their country. The nonsense of secret influence has indeed been employed to disguise the

the intended violence; and when resolutions were carried in the House of Commons, the honour of that House is interposed, yet further to obscure the subject. The *Secret Influence* complained of, was advice which the nation have pronounced to be just; and as to the honour of the House of Commons, this must ever consist in an *upright discharge of their public trust*. The true question, therefore, stript of these false colours, will be, Is it the duty of the House of Commons to usurp the prerogative of naming ministers? On this question I have no difficulty in deciding—The House of Commons possessing this power, can no longer answer the purpose of their institution, but will become a curse and scourge to the country, from the moment in which they succeed.

One great evil, which had arisen from various causes, foreign as well as domestic, was the influence which the executive magistrate had attained in our national assemblies. Remedies from time to time have been applied. Laws have been made to exclude placemen from seats in that House, and even from a voice in the election of members. Will this evil be less, if by the election of ministers, or in other words, by the exercise of the Royal Authority in the House of Commons, the general Interest of the body becomes the advancement of their own power? Will not they, in the character of legislators, prescribe the rules most consonant to their own views, regardless of the general interest of the community? The attempt to possess themselves of the executive authority, which they were appointed to watch and controul, is in my judgment, a direct abdication of their trust; for the

very foundation of confidence is subverted. How can the people confide in,—how can the people be *represented* by those, who no longer have a common interest with themselves? The natural interest of men raised to stations of public trust, is the advancement of their own power.—The interest of the people at large ever must be general liberty. Let the House of Commons possess the executive authority, will they stipulate with themselves in behalf of the people? Will they set limits to their own power? Will they, in short, *represent* the people, or will they act for themselves in pursuit of a separate interest? To avoid the suspicion of accommodating my reasoning to the present occasion, I will answer in the words of the president Montesquieu:—

“ When the legislative and executive powers are
 “ united in the same person, or in the same body
 “ of magistrates, there can be no liberty; be-
 “ cause apprehensions may arise, lest the same
 “ Monarch or Senate should enact tyrannical
 “ laws, to execute them in a tyrannical man-
 “ ner.” *

* The negative of the King in legislation, does not form an exception to this maxim. The King has no right to propose a law, to alter a law proposed by others; he can only reject. This is not so properly a legislative power, as a negative on the legislation of others:—a mere defensive privilege to enable him to withstand the encroachments of the legislature, and to preserve the Government entire.

C O N.

CONCLUSION.

THE above important truths are submitted to the impartial examination and decision of the people of England: and though the spirited conduct of the principal towns and counties shews that they do not stand much in need of instruction, yet the above arguments may at least serve to fix and confirm their sentiments. The part which they have taken, was the natural result of those settled notions, and first principles of government, which have been traditionally delivered down from father to son †, and which, by the authority they have over their minds, have prevented their being the dupes of the new-fangled doctrines of an interested faction.

If the reasoning here adopted should appear to them just, and the conclusions satisfactory, they will need no other guidance in the choice of their representatives, whenever the appeal is made to them by a dissolution of Parliament. And upon the conscientious choice of such representatives, as have supported, or promise to support the Constitution against the attacks of faction, must depend the security of their rights and privileges, and the continuance of constitutional liberty. De Lolme, in his excellent treatise on this constitution says, "That the English government will be no more, when the representatives of the people begin to share in the executive authority." If therefore the friends of the coalition, possessing, through the means of the people, a majority in the ensuing parliament, should

† Vide Mr. Rous's "Claim examined."

should be able again to obstruct public business, so as to force themselves back to office, and carry through their India Bill, there would be an end of English Liberty. But if through the virtue of the electors of England, they should be left in a weak and ineffectual minority, and their schemes consequently baffled, then property will be safe, charters will continue to be respected, the despotism of an aristocracy will be repelled, and the best Constitution in the world will remain unviolated.

F I N I S.

